

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MOHAMMAD YIAKUB HOSSAIN,
Plaintiff,
v.
USCIS, et al.,
Defendants.

No. 2:24-cv-01362 DJC AC PS

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). Plaintiff filed this mandamus case pursuant to 28 U.S. C. § 1361, asking the court to order defendants to process his Asylum Application without further delay. ECF No. 1 at 2. The only relief sought by plaintiff seeks an order compelling defendants to act on his I-589 Asylum Application without further delay. ECF No. 1 at 12.

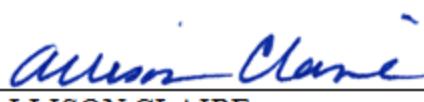
On July 22, 2024, defendants moved to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(1) because on July 9, 2024, the agency issued an interview notice and scheduled plaintiff’s asylum interview for August 21, 2024. Declaration of Elliot Wong (“Wong Decl.”) ¶ 2. Defense counsel emailed plaintiff on July 11, 2024, July 16, 2024, and July 18, 2024 to notify him of the hearing and provided a courtesy copy of the interview notice and sought plaintiff’s position on the status of this litigation. Id. at ¶ 3. Defendants moved to dismiss this case on mootness grounds

1 pursuant to Fed. R. Civ. P. 12(b)(1). ECF No. 7. Plaintiff did not respond.

2 “In general, when an administrative agency has performed the action sought by a plaintiff
3 in litigation, a federal court ‘lacks the ability to grant effective relief,’ and the claim is moot.”
4 Rosemere Neighborhood Ass’n v. U.S. Environmental Protection Agency, 581 F.3d 1169, 1173
5 (9th Cir. 2009). “Because . . . mootness . . . pertain[s] to a federal court’s subject-matter
6 jurisdiction under Article III, [it is] properly raised in a motion to dismiss under Federal Rule of
7 Civil Procedure 12(b)(1) . . .” White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000). Here, plaintiff
8 has received what his complaint requested when USCIS issued an interview notice and scheduled
9 his asylum interview for August 21, 2024. Accordingly, there no longer exists a live case or
10 controversy with respect to plaintiff’s action to compel USCIS to act on his application, which is
11 the relief sought in his complaint. His claims are therefore moot and subject to dismissal for lack
12 of jurisdiction.

13 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of
14 jurisdiction. These findings and recommendations are submitted to the United States District
15 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
16 one (21) days after being served with these findings and recommendations, plaintiff may file
17 written objections with the court. Such document should be captioned “Objections to Magistrate
18 Judge’s Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to
19 file objections within the specified time may waive the right to appeal the District Court’s order.
20 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: August 28, 2024

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23 ALLISON CLAIRE
24 UNITED STATES MAGISTRATE JUDGE
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